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FM AMEMBASSY RANGOON  
TO RUEHC/SECSTATE WASHDC PRIORITY 9033  
INFO RUCNASE/ASEAN MEMBER COLLECTIVE  
RUEHGG/UN SECURITY COUNCIL COLLECTIVE  
RUEHBY/AMEMBASSY CANBERRA 1993  
RUEHNE/AMEMBASSY NEW DELHI 5470  
RUEHUL/AMEMBASSY SEOUL 9064  
RUEHKO/AMEMBASSY TOKYO 6640  
RUEAIIA/CIA WASHDC  
RHHMUNA/CDR USPACOM HONOLULU HI  
RUEHGV/USMISSION GENEVA 4453  
RHEHNSC/NSC WASHDC  
RUCNDT/USMISSION USUN NEW YORK 2446  
RUEKJCS/SECDEF WASHDC  
RUEHBS/USEU BRUSSELS  
RUEKJCS/JOINT STAFF WASHDC

C O N F I D E N T I A L SECTION 01 OF 02 RANGOON 000314

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SUBJECT: BURMA: TESTIMONY CONCLUDES IN AUNG SAN SUU  
KYI/YETTAW TRIAL; CLOSING ARGUMENTS ON JUNE 1

REF: RANGOON 312

Classified By: P/E Chief Jennifer Harhigh for Reasons 1.4 (b) & (d)

Summary

1. (C) Testimony concluded on May 28 in the trial against Aung San Suu Kyi (ASSK), her two assistants, and American John Yettaw. The trial will resume June 1, when the prosecution and defense will present closing arguments. There is no set timeframe thereafter for the judges' decision, but lawyers for Aung San Suu Kyi and Yettaw believe judges will likely deliberate for no more than four days before announcing the verdicts and any applicable sentences. ASSK will meet with her legal team on May 30. End summary.

The Witness for the Defense

2. (C) Kyi Win, a lawyer for the National League for Democracy from Irrawaddy Division (no relation to ASSK's attorney Neville), testified for the defense during the May 28 trial session. He stated that the 1974 Constitution had been invalidated by former State Law and Order Restoration Council (SLORC, replaced by SPDC) Chairman Saw Maung in 1991 and thus ASSK's 2003 house detention order was not legally justified. Prosecutors (ironically) contended that the law is the law, irrespective of the proclamations of senior generals. They sought to discredit Kyi Win, noting that he has been disbarred and unable to practice law since 1999 and claiming he is out of touch. In turn, Kyi Win blamed security services for Yettaw's incursion. Prosecutors, intent on absolving the police, replied that even in a superpower like the United States, terrorists managed to evade security to destroy the World Trade Center. Kyi Win also contended that ASSK had offered Yettaw temporary shelter because it is "human nature" to assist someone in distress. Kyi Win was the sole defense witness to appear in court; judges on May 27 had refused the defense's three other proposed witnesses (reftel), reportedly because they would be "unreliable" witnesses.

Yettaw on the Stand Again

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13. (C) Yettaw took the stand for 30 minutes in connection with the immigration and trespassing charges, following up on his four-hour testimony the day before. He told the court he acted alone and did not intend to make a political statement. He added that he was suffering from exhaustion and leg cramps when he reached ASSK's residence. After the conclusion of his testimony, he was reportedly taken to Inya Lake to show court officials and the attorneys the routes he swam to and from ASSK's residence. RSO confirmed the road in front of ASSK's residence was closed, likely in conjunction with what the court termed a "local inspection."

Next Steps in the Legal Case  
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14. (C) The trial resumes June 1, when both the prosecution and defense will present closing arguments. The two judges will then commence their deliberations. According to local lawyers, the judges may take as much or as little time as they need to reach a verdict. In theory, a judgment is possible the same day closing arguments conclude. However, Yettaw's attorney told us he believes the judges will deliberate for at least a day before reaching a verdict. Neville said he thinks judges may require three or four days. Although in other trials in Burma there is a gap between presentation of the verdict and sentencing, both the defense lawyers and police officials told Consul they expect judges to pronounce the verdict and any applicable sentence

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concurrently. Neville told Consul he will meet with ASSK on May 30 to discuss the trial. He added that his closing arguments on ASSK's behalf likely will focus on the judges' "arbitrary" decision to deny his three other defense witnesses. Embassy is seeking consular access to Yettaw prior to June 1.  
DINGER